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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/598,884	09/14/2006	Grzegorz Olesch	KALU-00101-NUS	1729

33794 7590 08/28/2009
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EXAMINER

SMITH, MATTHEW J

ART UNIT	PAPER NUMBER
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3635

NOTIFICATION DATE	DELIVERY MODE
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08/28/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No. 10/598,884	Applicant(s) OLESCH, GRZEGORZ	
	Examiner Matthew J. Smith	Art Unit 3635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 July 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 29-56 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 29-49 and 51-55 is/are rejected.
- 7) ☒ Claim(s) 50 and 56 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>8May07</u> . | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 29-31, 33-37, 39-44, 46-48, and 52-54 are rejected under 35 U.S.C. 102(b) as being anticipated by Gregory (4501098).

Gregory discloses a method of constructing of a transportable modular building, comprising: making a foundation 36 at a building site; producing in a factory a service module 10 of a frame construction, which enables a container transportation and with appropriate building installations; the height substantially corresponds to half of the length; producing in a factory horizontal segments of a frame construction with the width substantially corresponding to the height of the service module and the length substantially corresponding to the length of the service module; a vertical segment of a frame construction having the height substantially corresponding to the height of the service module and the length substantially corresponding to the length of the service module, Fig. 3; transportation of the service modules, the horizontal, and vertical segments to the building site by means of a vehicle apt to container transportation, Fig. 1; attaching the service modules on the foundation of the building, Fig. 2; attaching an appropriate number of the horizontal segments on the foundation and connecting the segments with the service module at the level of the bottom plate of the service module, Fig. 3; attaching an appropriate number of the vertical segments to the horizontal segments, Fig. 4; attaching an appropriate number of the horizontal segments to the vertical segments

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and to the service module at the level of the top plate of the service module, Fig. 3; the horizontal segments attached to the service module perpendicularly to the longitudinal axis Fig. 13; two service modules (col. 9, line 20) connected in end to end aligned relation with each other on the same level; the building segments having door and window openings; connecting to the building additional rafter framing, balconies and/or other structural elements (col. 8, lines 20-27); and, during transportation, the horizontal and/or vertical segments stacked and temporarily connected together, to form a block having length and width corresponding to length and width of a standardized container, Fig. 1 (col. 6, lines 35-42).

Gregory also discloses a transportable modular building comprising one service module 10 of a frame construction, which enables container transportation and provided with appropriate building installations, where the height substantially corresponds to the half of the length; two horizontal segments 10, 20 of a frame construction having the width substantially corresponding to the height of the service module and the length substantially corresponding to the length of the service module; vertical segment of a frame construction having the height substantially corresponding to the height of the service module and the length substantially corresponding to the length of the service module; the horizontal segments attached to the foundation 36 on the service module bottom plate level and to the vertical segments; the vertical segments attached to the horizontal segments; the horizontal segments attached perpendicularly to the longitudinal axis of the service module, Fig. 3; the horizontal and vertical segments are of the same construction; the horizontal and vertical segments are of the same dimensions; and two service modules 10 connected in end to end aligned relation with each other on the same level, Fig. 6.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 32, 38, 49, and 55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gregory.

Gregory discloses the invention substantially as claimed but not connecting at least two service modules parallel one on another.

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to connect two service modules parallel one on top of another since Gregory suggests a second story (Fig. 8) and to add a service module would have been obvious.

Claims 45 and 51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gregory in view of Smith (3462891).

Gregory discloses the invention substantially as claimed but not vertical assembly posts of a square cross-section and the width substantially corresponding to the thickness of the vertical segment placed between neighboring vertical segments.

Smith shows vertical assembly posts 38 of a square cross-section and the width substantially corresponding to the thickness of a vertical segment 34 and placed between neighboring vertical segments.

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to add a post to the Gregory structure in order to add strength.

Allowable Subject Matter

Claim 50 and 56 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Bigelow et al. (4327529) depict a modular house in a shipping box, Fig. 4.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew J. Smith whose telephone number is (571) 272-7034. The examiner can normally be reached on T-Th, 8-3.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard E. Chilcot can be reached on 571-272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Richard E. Chilcot, Jr./
Supervisory Patent Examiner, Art Unit 3635

/M. J. S./
Examiner, Art Unit 3635
17 June 2009